

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.2080 OF 1989

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

-
1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

CHETNABEN B PANDYA
VERSUS
STATE OF GUJARAT & ORS.

Appearance:

MR AKIL QURESHI for petitioner
MR PK PANCHOLI for respondents No.1 & 2

Coram: MR.JUSTICE S.K. Keshote,J
Date of decision: 29/03/2000

C.A.V. JUDGMENT

#. In this special civil application, the petitioner

prayed for the following reliefs:

- (A) to admit this petition;
- (B) to direct the respondent-authorities to make appointment of the petitioner on regular basis with retrospective effect from the first appointment vide order Annexure-A;
- (C) to permit the petitioner to hold the said post on regular basis till regular appointee through the Gujarat Public Service Commission is appointed at the said post;
- (D) to permit the petitioner to appear before the Gujarat Public Service Commission as and when the interviews are held for the appointment for the said post even if the petitioner has become over-aged by relaxing the age-limit;
- (E) pending notice, admission and final hearing of this petition the respondents be directed to allow the petitioner to remain in continuous service and further allow the petitioner all the benefits of regular permanent appointee.

#. This writ petition was admitted on 24th March 1989 and interim relief in terms of para-8(C) was granted. The petitioner was given purely adhoc and temporary appointment on the post of Lecturer in the subject of Gujarati first time for a period from 16th September, 1986 to 16th February 1987. Second adhoc appointment was given to the petitioner under the order dated 31st August 1988 till the end of the academic session 1988-89. However, under the order dated 29th October, 1988, the petitioner's services were brought to an end. Then a fresh appointment was given to the petitioner till the end of session of 1988-89 under the order dated 21.1.89. This special civil application is filed by petitioner in this court on 13th March 1990 and a fixed term adhoc appointment which has been given to the petitioner now continues under the court's order.

#. The learned counsel for the petitioner submitted that the petitioner is working for all these years on adhoc basis under the order of this court and this order may be continued till the selection are made by the GPSC for this post. In his submission, GPSC has already invited applications for the post and in the written test held in the month of May 1999, the petitioner appeared therein and she was declared successful therein. Now oral

interviews are to be held within a short period. At this stage if the writ petition is dismissed, the petitioner may be deprived of livelihood. Relying on the decision of the Hon'ble Supreme Court in the case of Rattanlal & Ors. etc.etc. v. State of Haryana & Ors., reported in 1986 LAB I.C. 1599, the learned counsel for the petitioner contended that the action of the respondents to give adhoc appointments to the petitioner at the commencement of the year and terminate the services before summer vacation is wholly arbitrary and unjustified.

#. On the other hand, the learned counsel for the respondent-State contended that the petitioner has no right whatsoever to hold the post. It is further submitted that adhoc appointments are given to the petitioner for limited time / duration and on expiry of that limited time / duration it has come to end automatically. The learned counsel for the respondent placed reliance on the decision of this court in L.P.A. No.180 of 1995 decided on 13.6.1995 (Coram: Mr.Justice B.N.Kirpal, C.J. (as he then was) & Mr.Justice H.L.Gokhale). Reliance has also been placed on the decision of this court in S.C.A decided by Mr.Justice B.C.Patel, on 15th July, 1995. The learned counsel for the respondent submitted that as and when temporary vacancies' need was there temporary appointments were given which were given for a fixed term.

#. I have given my thoughtful considerations to the submissions made by learned counsel for the parties.

#. It is not a case where the petitioner is working on adhoc basis for all the years. It is a case where for a short term, on three occasions, appointment was given to the petitioner for fixed term. It was not only an adhoc appointment but also a fixed term appointment. This appointment does not confer any right to hold the post and it is terminable without any notice and without any order of termination. But the petitioner continues for all these years under the court's order. The petitioner has no right to hold the post. Even if she continues for all these years under the court's order, it does not confer any right upon her for regularization of her services as a Lecturer in Gujarati. An adhoc appointment continues to be adhoc for all purposes unless it is culminated in permanent appointment under some Rule or Regulation. The post of Lecturer is within purview of GPSC and appointment on these posts is to be made by selection and there is no question of any regularization of her appointment. The petitioner has no case

whatsoever. The petitioner's adhoc appointment cannot be protected. Even if GPSC has already taken steps to fill up the post of Lecturer by selection and the petitioner has appeared in written examination and passed, it is hardly any ground to continue her in services. If the petitioner succeeds in selection, she will get appointment but she cannot be continued merely because for all the years under the court's order, she continued. The petitioner has no right on the post and the decision on which reliance has been placed by learned counsel for the petitioner is of little help to the petitioner in this case. If we go by the facts of this case, then at the cost of repetition, it is to be stated that for a very short term three appointments have been given. The petitioner, within a short time has challenged the same before this court and persuaded this court to grant interim relief to her and that is how she is continuing. When the petitioner has no right to hold the post, she cannot be granted any benefit. This matter is squarely covered under the decision of the Division Bench of this court on which reliance has been placed by learned counsel for the respondent.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, earlier granted by this court stands vacated. No order as to costs.

.....

(sunil)